



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE FILED
STATE OF CALIFORNIA

08-17-07
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Order Instituting Rulemaking to Develop
Additional Methods to Implement the California
Renewables Portfolio Standard Program.

Rulemaking 06-02-012

Comments of CPV Renewable Energy Company, LLC

CPV Renewable Energy Company, LLC (“CPVREC”) is pleased to submit these comments to the California Public Utilities Commission (“the Commission”) in support of development of a robust trading regime for renewable energy certificates (“RECs”). CPVREC supports the unbundling and trading of RECs associated with renewable energy facilities that deliver electricity directly into the territories of California load serving entities (“LSEs”).

I. CPV Renewable Energy Company, LLC

CPVREC is a developer of wind farms nationwide and a wholly owned subsidiary of Competitive Power Ventures, Inc. (“CPV”). CPV is a national leader in developing and operating environmentally friendly wind-powered and highly efficient natural gas-fired electric generating facilities. CPVREC has in various stages of development 9 wind-power projects in California, potentially totaling as much as 1,000 MW. Nationally, CPV is also developing more than 6,000 MWs of new, clean, state-of-the-art natural gas and renewable generation projects that will provide consumers a continued supply of reliable, low-cost electricity, with low or zero emissions. Two such facilities are located in California, the 640 MW natural gas fueled Calusa project being developed under a contract with Pacific Gas & Electric and the 450 MW Sentinel project being developed under a long term power sales agreement with Southern California Edison.

II. Comments on Unbundling and Trading of RECs

California has led the nation in developing and strengthening renewable portfolio standards (“RPS”) that promote the development of low-cost, zero-emission, renewable energy facilities. The RPS promotes the State’s important objectives of diversifying its mix of generating resources and displacing fossil-fuel generating facilities that would otherwise need to be built to serve the State’s growing economy.

The Commission’s orders implementing the RPS have recognized the necessity of structuring rules that reduce transaction costs and that enable developers to enter into long-term contracts that facilitate the financing of new renewable energy facilities. As the State raises its RPS requirements for California load-serving entities from a 2010 target of 20 percent to a 2020 target of 33 percent, and as it requires smaller LSEs to participate in the program, there is a need to add flexibility to the RPS program. In particular, CPVREC believes that adopting a regime that allows for the unbundling and trading of RECs associated with renewable energy generation located in the service territories of California LSEs will best allow the State to realize its RPS objectives.

1. The importance of long-term contracts. California’s RPS program requires the State’s LSEs to meet their RPS requirements by purchasing the target percentage of their electricity in the form of renewable energy delivered directly into the control area of the California Independent System Operator (“CAISO”). Under the legislative and regulatory framework that this Commission has overseen, LSEs have conducted RPS solicitations to enter into long-term power purchase contracts (or turnkey or buy-out arrangements) with renewable energy developers that submit winning bids. Most long-term contracts entered into to date have been with the State’s larger investor-owned utilities (“IOUs”). Generally, only these IOUs have proven able to enter into suitably sized, long-term contracts that can provide developers with the necessary revenue stream to support financing.

Long-term contracts with IOUs and others LSEs will remain central to robust development of large renewable energy facilities, such as wind farm projects. However, additional flexibility could be introduced into the State’s RPS rules that will provide additional value to developers and that will facilitate compliance with RPS requirements by smaller LSEs, including energy service providers (“ESPs”), community choice aggregators (“CCAs”), small utilities, and municipal utilities that establish their own RPS requirements. Smaller LSEs in particular may not be able to enter into bundled long-term contracts for a variety of reasons. Chief among these reasons is a mismatch between the smaller LSE’s energy needs and the output of an economically sized renewable energy project. Other reasons may include transmission constraint issues, and these smaller LSEs’ potential uncertainty regarding the size of their load over the long term. Permitting renewable energy developers to unbundle RECs from their energy generation and to sell the RECs in smaller lots should help address these problems and encourage a higher and more cost-effective rate of RPS compliance by smaller LSEs.

While unbundling RECs will broaden the market for and lower the cost of compliance with the State’s RPS requirements, it is important that the RPS rules preserve all existing opportunities for renewable energy developers to enter into bundled, long-term power purchase contracts with IOUs while significantly enhancing the flexibility of IOUs to do so. For example, a disproportionate amount of California’s renewable energy facilities are located in Southern California Edison’s service territory.¹ Under current regulations, though, other IOUs and smaller LSEs located elsewhere in the State are not able to purchase RECs associated with these Southern California resources other than by remarketing the energy or through inter-utility swap arrangements. The unnecessary transaction costs of these indirect means of unbundling

¹ Renewable Energy Certificates and the California Renewables Portfolio Standard Program, Staff White Paper, Division of Strategic Planning, California Public Utilities Commission (April 20, 2006) at p.2.

could be avoided or reduced if the IOUs were free to buy and sell unbundled RECs. The dramatic success of the tradable allowance regime of Title IV of the Federal Clean Air Act Amendments of 1990 demonstrates that an unbundled trading platform can dramatically lower the costs of complying with aggressive environmental targets such as those established in California.

2. Implementing unbundling. Unbundling RECs would allow renewable energy developers to contract separately for the sale of energy and for the sale of a REC associated with the production of such energy. Other regions of the country with established REC programs that provide for unbundling have developed standardized, commercially proven master agreements that reduce transaction costs for trading RECs. Unbundling works most effectively in reducing transaction costs if a regulatory structure is in place that allows for the electronic tracking of RECs and permits third-parties (i.e. parties other than renewable energy developers and LSEs) to own and trade RECs. Fortunately, other states have had valuable experience in implementing unbundling and trading of RECs. For example, the Western Renewable Energy Generation Information System (“WREGIS”) implements a State-wide tracking and trading program, prevents double counting of RECs, and is entirely consistent with documenting RPS compliance by LSEs.

3. Sourcing of RECs. Under existing Commission rules, qualifying RPS energy must be delivered by the renewable energy resource into the CAISO control area. This requirement ensures that the benefits associated with RPS accrue to Californians who collectively bear the costs of RPS procurement. This requirement should not be changed.

California adopted its RPS in order to stimulate development of zero-emission renewable energy facilities that displace emission-producing fossil fuel plants. This objective has only been heightened with the State’s commitment to implement caps on carbon dioxide and

other greenhouse gases. Under a regulatory regime that allows trading in unbundled RECs, California fossil-fuel facilities would be displaced only if qualifying RECs are sourced within California and are capable of delivering energy directly into the CAISO grid. Thus, were the Commission to allow unbundled RECs to be acquired from out-of-state renewable energy sources for compliance purposes in California's RPS program, this would undermine the State's declared objective of displacing California fossil-fuel generation. When and if the U.S. Congress adopts a national RPS program, California can turn its attention to broadening the geographic scope of the State's RPS program.

III. CONCLUSION

CPV REC supports proposals to introduce flexibility in California's RPS program by allowing for the unbundling and trading of RECs associated with energy delivered into the CAISO grid by California renewable energy facilities. Such unbundling and trading will reduce transaction costs for RPS compliance for both IOUs and smaller LSEs, and will provide additional value both to California's ratepayers and to developers of renewable energy facilities. California should implement REC unbundling and trading without diminishing the availability to renewable energy developers of long-term bundled power purchase contracts with the IOUs. Such contracts will remain the bedrock for project financing of new renewable energy investments. California also should adopt REC unbundling and trading without abandoning the requirement that qualifying RECs be sourced from resources that deliver energy directly into the CAISO grid. Only by maintaining this California-sourcing requirement will the RPS program continue to serve the core objective of displacing California fossil-fuel facilities.

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² CPV also requests that all of the undersigned be added to the service list in this docket.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document on all parties of record in the above captioned proceedings by serving an electronic copy on their email addresses of record and, for those parties without an email address of record, by mailing a properly addressed copy by first-class mail with postage prepaid. This Certificate of Service is executed on August 17, 2007, at Washington, D.C.

/s/ Richard Lehfeldt
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CALIFORNIA PUBLIC UTILITIES COMMISSION

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